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B. Noel Kivlin
Myerestons, Hood, Kivlin, Kowert & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767-0398

EXAMINER

JUNG, MIN

ART UNIT PAPER NUMBER

2663

DATE MAILED: 06/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/684,593

Applicant(s)

HIPPE ET AL.

Examiner

Min Jung

Art Unit

2663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12, 13, 15-17 and 22-32 is/are rejected.
- 7) ☒ Claim(s) 11, 14 and 18-21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because the first sentence is inappropriate because it starts with "To achieve the foregoing ----" when there is no foregoing description. Correction is required. See MPEP § 608.01(b).

Drawings

2. The drawings are objected to because "Fig. 1" should be labeled as ----Fig. 1B" instead to correspond to the description in the specification. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 10, 22-26, and 29-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 10, the meaning of the determining step is unclear; it seems that at line 2, "has is" should be changed to ----has been----.

In claim 22, the role of the determining step is unclear because in claim 15, it is recited that the first data channel is destructed; does the determining step determine the channel reestablishment?

In claim 29, it is not clear how a channel take down occurs before a new channel reconstruction, and still provide a continued communication?

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1-9, 12-13, 15-17, and 27-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Bittinger et al, US 5,867,661 (Bittinger).

Bittinger discloses method and apparatus for using virtual sockets for communication between a client and a server. Bittinger teaches that a virtual socket is

established in response to the connection request by a first application at a client, then real sockets in the requesting computer and the destination computer are established, then the virtual socket in the destination computer (server) is established. See Abstract.

Specifically, regarding claim 1, Bittinger teaches initiating communication from a first application (web browser initiating communication to be connected to a web server, col. 8, lines 6-8, col. 19, lines 9-10), determining a destination address (checking the URL of the incoming request, col. 8, lines 9-11, or determining any of the sockets 36A or 36B), establishing a first data channel (link 35, col. 19, lines 25-29), connecting the communication to a second application (connection to the second computer which is a server, col. 19, lines 34-40).

Regarding claim 2, Bittinger teaches that the communication is directed from the first application (web browser) to the second application (web server), using a virtual address (URL). See col. 2, lines 2-7.

Regarding claim 3, it is inherent in Bittinger that the first application (web browser) has identification in a form of address, because any application or request from a user would have identification. This address/identification would be a virtual address as oppose to physical addresses indicated by socket numbers.

Regarding claim 4, Bittinger teaches determining a second actual address associated with the second application (determining the real socket 36B). See col. 19, lines 27-29.

Regarding claim 5, Bittinger teaches determining a first actual address associated with the first application (determining the real socket 36A). See col. 19, lines 27-29.

Regarding claim 6, Bittinger teaches connecting the communication to a second application (web server) including directing the communication to the second actual address (directing the communication to the real socket 36B through the connection 35).

Regarding claims 7 and 8, Bittinger teaches communicating over a control channel (between the real sockets 37A and 37B) between the first computer and the second computer, and coordinating the communication over the data channel (sockets 37A and 37B creates and establishes the connection between the two computers, col. 19, lines 25-33).

Regarding claim 9, Bittinger teaches determining if a channel is already established (if a real socket already exists, then a virtual socket is connected to the real socket and therefore not requiring an establishment of a channel, col. 24, lines 25-29).

Regarding claims 12 and 13, Bittinger teaches associating the data channel with a first socket associated with the first application and associating the data channel with a second socket associated with the second application (the real socket 36A on the first computer side, and the real socket 36B on the second computer side, Fig. 11, and col. 19, lines 25-29).

Regarding claim 15, Bittinger teaches destructing the data channel to halt communication. See col. 25, line 41 – col. 26, line 34.

Regarding claim 16, Bittinger teaches reconstructing a second data channel (when an event is received on the real socket, a simplex virtual socket is created for communication, See Fig. 13A, steps 302, 305, 306, 307, 308).

Regarding claim 17, Bittinger teaches the external signal for channel close. See col. 26, lines 16-20.

Regarding claims 27 and 28, the recited steps are addressed above. Bittinger teaches the computer program product of the steps addressed as evidenced by the flow charts showing the process.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bader et al., US 6,542,934 (Bader).

Bader discloses method and system for reassignment of communication sessions between a primary path and a secondary path. The data communication network 100 of Bader interconnects a number of nodes to each other by communication links. Fig. 1. Node 106 is connected to the network by multiple communication path 107 and 107a. Establishing communication over a data channel is inherent in data communication network as the one shown in Fig. 1 of Bader. In Bader, if primary path

107 fails, then the existing communications sessions are switched over to the secondary path 107a. Therefore, communication sessions are maintained over the secondary path. See col. 6, lines 24-32. In Bader, there are no active steps of taking down the primary channel and reconstructing of the secondary channel. However, the faulty condition would automatically disable the primary channel thereby corresponding to the taking down of the channel, and enabling the secondary channel to take over the function of primary channel would correspond to the reconstructing of the second channel. Note, physical take down and reconstruction is more elementary way of provisioning channels. Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to modify Bader's teaching to instead physically take down and reconstruct the channels to provide continued communication between two end points.

Allowable Subject Matter

9. Claims 11,14, 18-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claims 10, 22-26, and 30-32 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Follett et al. patent, the Bell et al. patent, the Sun et al. patent, the Behaghel et al. patent, the Sturniolo et al. patent, the Phaltankar patent, the Aiken, Jr. et al. patent, the Chintakrindi et al. patent, and the Arndt et al. patent are cited for further references.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Min Jung whose telephone number is 703-305-4363. The examiner can normally be reached on Monday-Friday, 7AM-3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on 703-308-5340. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJ
June 2, 2004


Min Jung
Primary Examiner